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FEDERAL MARITIME COMMISSION

40 CFR Part 540

[Docket 02-15]

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Passenger Vessel Financial Responsibility, FILED IN THE SECRETARY  
Notice of Proposed Rulemaking (NPRM) FEDERAL MARITIME COMM

Comments on NPRM from

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**We are filing these comments in opposition to the above NPRM that would amend its passenger vessel regulations to eliminate the current ceiling on required performance coverage and make other changes.**

There is no justification for the changes.

We have no doubt that the major factors that drew the Commission to consider development of this NPRM were the problems created by the default of American Classic Voyages (AMCV). The Commission eliminated provisions for self-coverage that exempted AMCV from maintaining the bond. This was enough action to prevent future occurrences. While it may have appeared that the FMC Bond program did not prevent AMCV passenger losses, the priority preference in the U.S. Bankruptcy Code for consumer deposits up to \$2,100 per person should cover all of the passenger claims from this bankruptcy according to the approved liquidation plan.

Historically, it is the smaller cruise lines that are most likely to have financial problems which prevent performance or refunds. The fact is that the Unearned Passenger Revenue (UPR) of these lines is well-covered by the existing bond level.

The entire burden of the elimination of the ceiling would be placed on the four companies that carry 98% of the North American departing passengers – Carnival (including the P & O/Princess group), Royal Caribbean, Star Shipping (Norwegian Cruise Lines) and Disney. These are publicly held, major corporations that are required to regularly disclose financial information and have only the most infinitesimal possibility of failing to perform or refund UPR.

The proposed costs far outweigh the potential benefits.

Assuming that the cruise lines could afford the cost of providing coverage of more than two billion dollars of UPR, the cost of coverage would, of course, be passed on to the cruise passengers. We estimate this cost to be in the range of \$10.00 per day. Since the cost would be imposed by the government, it would be an additional tax of \$70.00 per person on a one-week

cruise. This is the same amount as the recommended gratuities for the waiters, busboys and cabin stewards on most mass market and premium cruise lines. And what value would passengers receive for their \$10.00 per day – almost none!

Adequate protection already exists.

As we stated in our article, “Viewpoint – The FMC Bond – Does It Really Matter?” in the March 2003 issue of *Seatrade Magazine*:

“When purchasing any product or service that will only be provided weeks or months in the future, the use of a major credit card provides a high level of protection if the products or services are not received by the purchaser. While not required by law [more than 60 days after purchase] credit card companies have reimbursed losses on defaulted cruise lines. Travelers can also purchase trip cancellation insurance that provides bankruptcy or default protection if they do not receive services or **refunds**.

“The FMC bond is, at best, third-level protection for the consumer”

The FMC should not force cruise travelers to pay \$10.00 per day for unneeded protection.

Additional activities are also unneeded, and not the role of the FMC

The proposal for mandatory “Alternate Disputes Resolution (ADR)” are also unneeded. The receipt of fewer than 200 general consumer complaints from seven million cruise travelers is hardly a situation worth regulating. Cruise lines handle their problems very well, and the high levels of consumer satisfaction that exist in today’s marketplace attest to this. They freely provide refunds, credits and even free cruises for delays and loss of port visits due to mechanical problems or even the Norwalk-like virus.

Setting up a consumer complaint mechanism within the Commission is not an FMC responsibility. It appears to be a way of creating or protecting jobs in a government bureaucracy with a view toward solving problems that do not exist.

Is the FMC Bond an anachronism?

As we stated in our *Seatrade Magazine* article:

“It is interesting that in the current age of government deregulation, the FMC bond has been untouched, and the current rulemaking proposes to expand it. To our knowledge, the bond is the only federal program in the travel and tourism industry which specifically provides financial restitution to the traveling public. The federal government provides no protection for consumer losses to airlines, hotels, tour operators [car] rental companies or travel agencies”

Perhaps an NPRM should be issued to eliminate the FMC bond

*About the Davidoffs – Phil and Doris Davidoff have been travel agents and owners of Belair Travel & Cruises for more than 33 years. They are also principals of Davidoff Associates, Inc, an industry consulting firm. Philip served as president of the American Society of Travel Agents from 1990 to 1992. Doris is a former trustee of the Institute of Certified Travel Agents. They have owned a travel agency for more than 33 years, and have provided business and marketing consulting services to hundreds of travel industry companies and organizations.*